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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,829	01/17/2002	Tomoyuki Miyake	70904/56891	1190
21874	7590	07/14/2005	EXAMINER	
EDWARDS & ANGELL, LLP				MAGEE, CHRISTOPHER R
P.O. BOX 55874				
BOSTON, MA 02205				
				ART UNIT
				PAPER NUMBER
				2653

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/051,829	MIYAKE, TOMOYUKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher R. Magee	2653	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 4-27 is/are allowed.
- 6) Claim(s) 1-3,28 and 29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The reply filed 3/11/2005 was applied to the following effect: All relevant objections and 35 USC § 112 rejections are withdrawn as being satisfied.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Seo et al. (hereinafter Seo) (US 6,538,971 B2).

- Regarding claim 1, Seo shows a disk cartridge, comprising:  
a first cartridge [200] containing a first disk recording medium [not numbered], having a first diameter,

said first cartridge having plural holes [200c], which have different radial positions with respect to a disk center respectively, the plural holes being indicative of a relationship between said first diameter and a predetermined diameter of a second disk recording medium contained in a second disk cartridge [212] that is different from said first diameter of said first disk recording medium contained in said first cartridge [col. 7, lines 39-49; Figs 6 and 9].

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- Regarding claim 2, Seo discloses said holes [200c, 212c] are indicative of said disk recording medium diameter of each of said first and second disk recording mediums or an outermost operational movement of a pickup of a disk recording and reproducing apparatus for receiving said first cartridge or said second cartridge and reading data from or recording data to said first disk recording medium or said second disk recording medium [col. 7, lines 39-49; col. 8, lines 11-26].
- Regarding claim 3, Seo shows a hole [7] is provided in said second cartridge and a hole in said first cartridge is provided at a same coordinate position or a same radial position as said hole in said second cartridge with respect to a disk center location in a said disk recording and reproducing apparatus, regardless of the respective diameters of said first and second disk-recording mediums in said first and second cartridges [Figs. 6 and 9].

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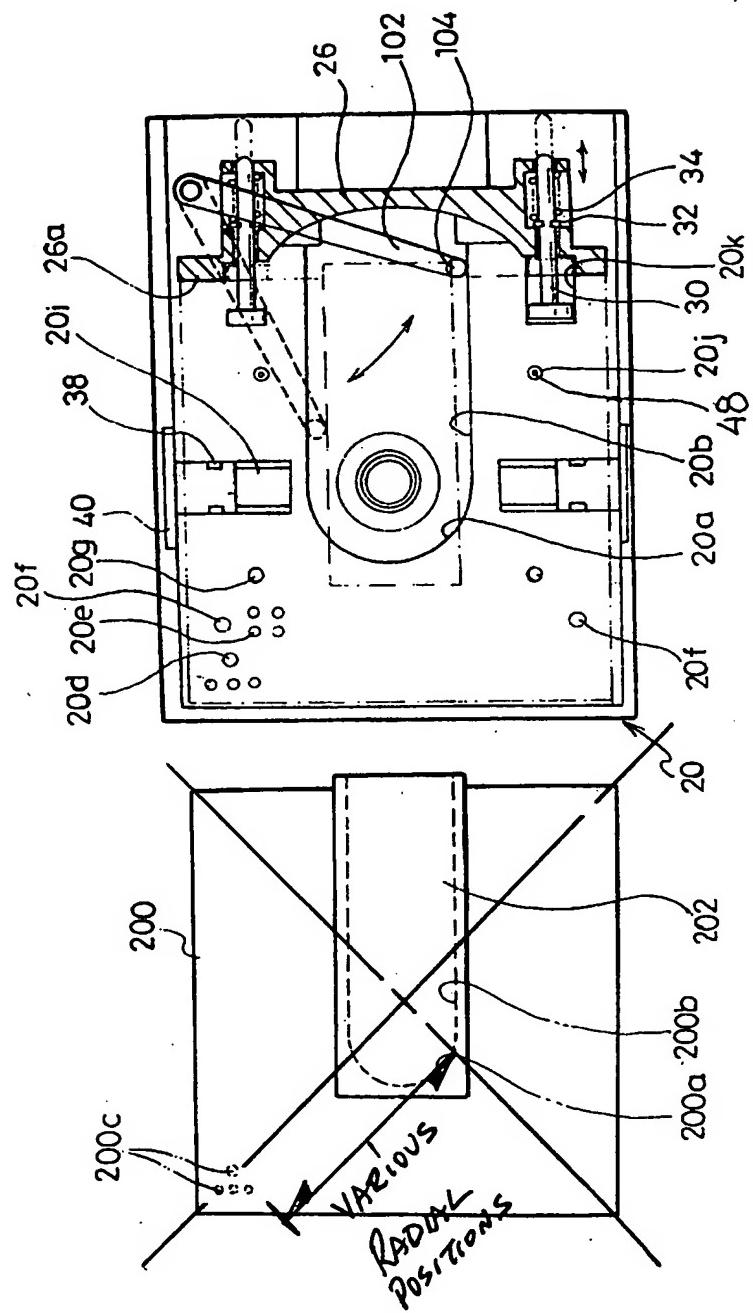
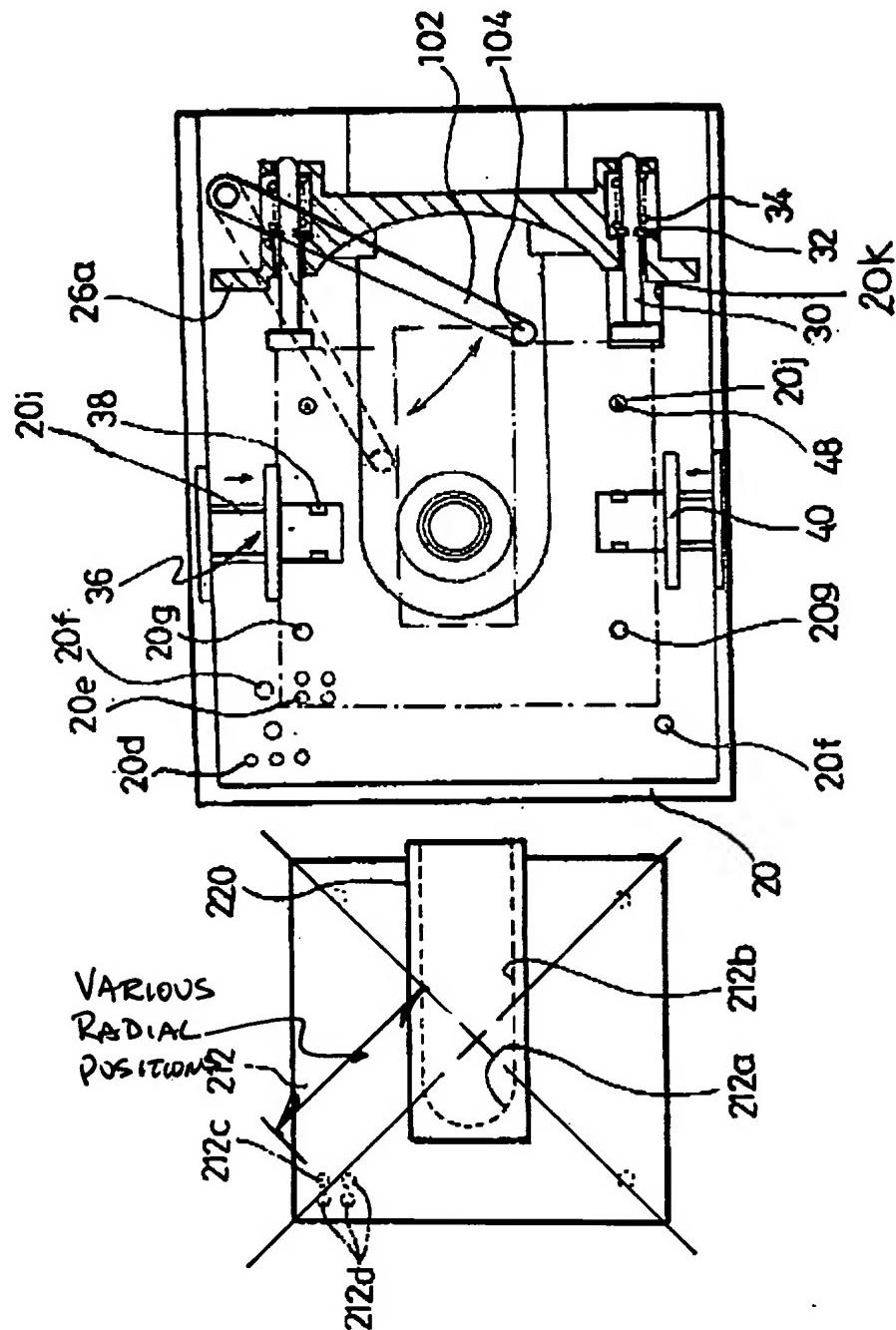
**FIG. 6**

FIG. 9



- Regarding claim 28, Seo discloses a disk recording and reproducing apparatus, comprising:

(a) a pickup [96] for recording and reproducing with respect a disk cartridge, wherein each said disk cartridge contains a disk recording medium and different disk cartridges contain disk recording media having different disk diameters relative to each other, and

(b) restricting means for restricting movement of said pickup in accordance maximum pickup movement indicia provided by a disk cartridge loaded into said disk recording and reproducing apparatus, the disk cartridge having plural holes, which have different radial positions with respect to a disk center respectively, the plural holes being indicative of a relationship between said first diameter and a predetermined diameter of second disk recording medium contained in a second disk cartridge that is different from said first diameter of said first disk recording medium contained in said first cartridge [col. 11, lines 3-14].

- Regarding claim 29, Seo discloses a determining means for determining said maximum pickup movement indicia of said loaded cartridge [col. 10, line 65 to col. 11, line 2].

***Allowable Subject Matter***

3. Claims 4-27 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

- **Claims 4, 20, 25 and 26** specify a disk recording and reproducing apparatus which requires:

*"a length of said hole being indicative of a difference in disk diameter between a minimum diameter disk recording medium and (a) said first diameter of said first disk recording medium or (b) the outer most operational position of said pickup"*

Fujisawa teaches at least one hole [7] for recognizing a relation in size between a disk diameter of a second disk cartridge which contains a second disk recording medium having a different disk diameter and a disk diameter of the first cartridge [English translation; sections 0011 & 0012] but does not show, teach, or suggest the applicant's invention as claimed above.

- **Claims 5, 10 and 15** specify a disk recording and reproducing apparatus which requires:  
*"wherein said restricting member detects said disk diameter of the disk recording medium positioned in said recording and reproducing apparatus through one of said plurality of holes and restricts radial movement of said pickup to not less than the said predetermined radius."*

Seo shows a restriction member [66] which determines the position of the smaller disc cartridge [210] on tray [20] but does not show, teach, or suggest the applicant's invention as claimed above.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-3, 28 and 29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (571) 272-7592. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher R. Magee  
Patent Examiner  
Art Unit 2653

June 27, 2005

crm

A. J. HEINZ  
PRIMARY EXAMINER  
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